UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/SR.25
31 August 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 25th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 31 March 1998, at 3 p.m.

Chairman: Mr. SELEBI (South Africa)

later: Mr. HYNES (Canada)

CONTENTS

ORGANIZATION OF THE WORK OF THE SESSION (continued)

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.98-11477 (E)

The meeting was called to order at 3 p.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1998/16)

Situation of human rights in Colombia

1. Mrs. ROBINSON (High Commissioner for Human Rights), introducing her report on Colombia (E/CN.4/1998/16), said that the mandate of the Office which had been opened in that country, as defined in the agreement concluded with the Colombian Government, had been extended for a further year. That mandate, which in her view was balanced, enabled the Office's experts to observe the human rights situation and study the measures taken by the Colombian Government to improve it. The Office was also providing the Colombian Government with technical advice on the development and implementation of its human rights policies and programmes. It was working closely with civil society, non-governmental organizations (NGOs) concerned with human rights, and the media.

2. The Office could not give useful advice unless it had a thorough understanding of the situation in the field, which it could gain by receiving complaints of human rights violations and breaches of international humanitarian law. The Office as also coordinating its activities with other United Nations agencies and programmes, including the Office of the United Nations High Commissioner for Refugees (UNHCR), and with the International Committee of the Red Cross (ICRC) on the important issue of internally displaced persons. Finally, it was liaising with and assisting the human rights treaty monitoring bodies and the mechanisms of the Commission.

3. Following the renewal of the mandate of the Office in Colombia, it had been agreed with the Colombian Government that the number of human rights officers there would be increased to 12, which implied that additional resources would have to be found. She thanked the Colombian Government for its cooperation with the Office, which had also benefited from support from numerous sectors of Colombian society. She also thanked the States and the European Commission, which had funded the Office's operations for a whole year, and looked forward to welcoming additional contributors. In conclusion, she stressed the importance of the Office that had been established in Colombia to promote the rule of law and respect for human rights, which responded to the aspirations of the Colombian people and would be a crucial contribution to efforts to achieve a just and stable peace in the country.

4. Mrs. ELJACH POLO (Observer for Colombia) said that the joint efforts made by the United Nations and the Colombian Government to establish a special mechanism for cooperation were beginning to bear fruit. The Office of the High Commissioner for Human Rights in Colombia was helping to improve the human rights situation in the country and was facilitating the quest for peace. It had assumed greater importance in the eyes of Colombian public opinion, having acquired a better understanding of the true situation in Colombia following visits by its officers to the locations that were most affected by the political violence and the internal armed conflict. As it had stated in document E/CN.4/1998/135 containing its comments on the report of

the High Commissioner, the Colombian Government would continue to facilitate the Office's activities, taking into consideration the concerns the latter had expressed and the recommendations it had made.

5. However, the Colombian Government expected the Office to propose practical solutions to ensure respect for human rights and international humanitarian law. In that connection, it believed that the increase in the number of officers would help to improve the advisory services furnished to the authorities and civil society. In the face of an internal armed conflict such as that which had been raging in Colombia for almost 40 years, the duty of any democratic State was to persevere in the quest for a negotiated settlement and, at the same time, to make tremendous efforts to guarantee and protect the fundamental rights of its citizens. While ensuring full respect for human rights should not be postponed pending the achievement of peace, the establishment of peace would undoubtedly help to ensure respect for fundamental rights. The Government and the people of Colombia were therefore making every effort to achieve those two aims.

6. In conclusion, the Colombian Government thanked all those who had played a role in the establishment of that innovative mechanism for cooperation with the Office of the High Commissioner for Human Rights and urged them to continue helping the Colombians in their quest for peace and respect for human rights.

7. Mrs. LITTLE (Andean Commission of Jurists) welcomed the extension of the agreement concluded between the High Commissioner and the Colombian Government concerning the establishment of an Office of the High Commissioner in Colombia, as well as the increase in the staffing of that Office. It was essential that the latter should receive not only all necessary economic and political support but also the requisite financial resources in order to enable it to discharge its task effectively. There was also a need to reaffirm its fundamental aims, which were to render advisory services on the promotion and protection of human rights to the governmental institutions and the representatives of civil society, and to monitor the human rights situation. In that connection, the Commission on Human Rights should request its various thematic mechanisms to continue to pay special attention to the human rights situation in Colombia in their respective annual reports.

8. History had shown that the presence of United Nations missions and offices in the field had a positive impact on critical situations when their mandate and their working methods were clear and when the parties concerned demonstrated their good faith. Accordingly, it was essential to intensify the activities and improve the functioning of the Office in Colombia so that it could make a noteworthy contribution to respect for human rights in that country.

9. Mr. ARTUCIO (International Commission of Jurists - ICJ) welcomed the fact that the mandate of the Office of the High Commissioner for Human Rights in Bogotá had been extended for a further year and that the number of experts working there had been increased to 12. The International Commission of Jurists also welcomed the report of the High Commissioner, which gave a clear account of the human rights situation in that country. That situation had deteriorated since 1997, as was shown by the increase in the activities of

paramilitary groups, the intensification of the phenomenon of forced displacements of population and the persecution of human rights activists. An average of 10 persons died every day in Colombia as a result of the socio-political violence taking place. The paramilitary groups had been responsible for 76.8 per cent of those deaths in 1997.

10. Noting that, in her report, the High Commissioner had expressed concern at the ineffectiveness of the State's military bodies when it was a question of actually opposing paramilitary groups in a resolute manner, the International Commission of Jurists pointed out that the Human Rights Committee had found links between those groups and members of the police during its consideration of the report of Colombia. It also noted that, in her report, the High Commissioner for Human Rights had urged the authorities to take into account the recommendations made by the treaty monitoring bodies as well as by the special mechanisms of the Commission on Human Rights. In fact, the Colombian Government had not cashiered the members of the armed forces who were closely involved in violations of human rights, as had been recommended by the Special Rapporteur on extrajudicial, summary or arbitrary executions. It had not taken the requisite measures to ensure that acts such as torture, extrajudicial executions and enforced disappearances were excluded from the jurisdiction of the military tribunals, as had been recommended by that Special Rapporteur and by the Special Rapporteur on torture. Finally, it had not abrogated the presidential decree establishing the special private surveillance and security services known as "Convivir", as the Human Rights Committee had recommended.

11. The International Commission of Jurists found it disturbing that the Colombian Government had acted neither on those recommendations nor on those of the Office of the High Commissioner for Human Rights in Colombia. For the human rights situation to improve, the Colombian Government's cooperation with that Office should lead to the adoption of measures and policies based on the Office's recommendations.

12. Mrs. AVELLA (Women's International Democratic Federation - WIDF) said that the violations of human rights in Colombia were increasing in magnitude and the list of trade-union leaders, militants and members, as well as human rights activists, teachers, men, women and children, who had been designated as military targets was becoming longer every day. She noted that the various Governments of Colombia had not acted on the recommendations made since 1990 by the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the need to cashier all the members of the police and armed forces who were linked to paramilitary groups. On the contrary, officers such as General Díaz, who had been accused of instigating or facilitating massacres, had been acquitted by the military tribunals and General del Río, who had been held responsible for numerous violations of human rights in the Uroba region, had even been promoted. In Colombia, everyone was aware that the armed forces were collaborating with the paramilitary groups and, consequently, violations of human rights by the forces responsible for maintaining law and order had not diminished, since those forces were acting through or in association with those groups. The elimination of political opponents was also continuing, and many of them, like Senator Motta, the Secretary-General of the Communist Party, had been forced to flee the country. During the past 11 years, 4,000 persons, including Senator Cepeda Vargas, had been

assassinated. It was evident that the speciality of the armed forces was the assassination of unarmed persons and the elimination of all those whom they regarded as being internal enemies.

13. WIDF had been informed of the emergence of a new phenomenon in the anti-guerrilla campaign, in which women had come to be regarded as spoils of war. By sexually assaulting, ill-treating and threatening relatives of the victims, the armed forces had succeeded in ensuring that no complaints were lodged. Seven female trade-union leaders had been assassinated in 1997 and the lives of at least a dozen others were being threatened. Four of the 20 human rights activists executed in 1997 were women. WIDF called upon the Commission to investigate all those violations by appointing a Special Rapporteur on the situation of human rights in Colombia.

14. Mrs. JACQUES (Lutheran World Federation), speaking also on behalf of the World Council of Churches and the World Alliance of Reformed Churches, welcomed the work being done by the High Commissioner's Office in Colombia, which merited the international community's active support. However, the Office should be encouraged to intensify its contacts with NGOs and social sectors in that country in order to promote respect for human rights and international humanitarian law.

15. The High Commissioner's report on the situation of human rights in Colombia highlighted numerous aspects of the crisis in that country and emphasized, in particular, the crucial and complex problem of impunity, which had been exacerbated by the fact that the military tribunals were vested with extensive jurisdiction to hear even proceedings relating to violations of human rights. It was therefore essential rapidly to draft and adopt legislation which clearly excluded those matters from the jurisdiction of the military tribunals and which stipulated that "due obedience" could not be invoked as a line of defence in cases involving violations of human rights and breaches of international humanitarian law. The problem of impunity was aggravated by the indulgence that had been shown towards members of paramilitary or "private justice" groups, even though the latter were believed to be largely responsible for the abuses committed in the country in recent years.

16. The attacks and intimidation to which humanitarian workers and human rights activists were being subjected, as well as the recruitment of minors into the ranks of the guerrillas or the armed forces or groups, and the increasing number of displaced persons due to the internal conflict, were further matters of concern to which the Colombian Government and the international community should give their full attention.

17. The Lutheran World Federation endorsed the request by many NGOs that the High Commissioner for Human Rights should submit to the General Assembly, at its 1998 session, a report on the activities of her Office in Bogotá and on the human rights situation in Colombia. It hoped that the Bogotá Office would continue to contribute to a resolution of the complex crisis in Colombia in a manner consistent with its people's desire for justice and peace.

18. Mrs. PARES (Pax Romana) said that the Colombian Government appeared to consider that the bodies and mechanisms established by the United Nations

lacked any legitimacy and authority. Accordingly, it had paid no attention to the recommendations that had been made by, inter alia, the Commission's Special Rapporteurs on torture and on extrajudicial executions, and by the Human Rights Committee which, at its fifty-ninth session, had urged the Government to put an end to the system of regional justice and "faceless" judges and witnesses, and to guarantee the right to legal defence. The regional tribunals were still operating, the right to due process was constantly flouted and trade-unionists, students and displaced persons who were merely demanding the return of their land and their jobs were still being prosecuted for terrorism.

19. Moreover, members of the security forces were still blatantly supporting paramilitary groups and the "Convivir" associations, which enjoyed legal recognition, which were responsible for 31 massacres in which 265 persons had been killed in 1997 and which were operating mainly in highly militarized zones. Far from being punished for their acts, the military personnel involved had even been promoted, as in the case of General Rito Alejo del Río, commander of the armed forces in the province of Uroba. Following numerous appeals to remedy that impunity, the Colombian Government had finally submitted two bills to Congress which made the enforced disappearance of persons a criminal offence and excluded violations of human rights from the jurisdiction of the military tribunals. However, according to the High Commissioner for Human Rights, those bills were not in conformity with the existing international norms in that regard and, for the moment, no action was being taken against the Colombian military personnel responsible for enforced disappearances.

20. In spite of the opening of the Office of the High Commissioner's Office in Bogotá, the structures that facilitated the violation of human rights remained unchanged, as the Colombian Government lacked the political will to improve the situation. Consequently, the United Nations should insist that the Government implement the recommendations addressed to it. Accordingly, Pax Romana requested the High Commissioner to submit her report on Colombia to the General Assembly and requested the Commission to instruct its thematic mechanisms to continue to monitor the Colombian crisis closely and to appoint a special rapporteur on the human rights situation in Colombia.

21. Mr. MONTIEL (Pax Christi International) expressed his deep concern at the human rights violations committed in Colombia in 1997, which the High Commissioner for Human Rights herself had described as serious, gross and systematic in her report. Pax Christi was particularly concerned by the situation of human rights activists, more than 20 of whom had been assassinated in 1997, including Mario Calderón and Elsa Constanza Alvarado, both of whom were active members of CINEP, and Jesús María Valle Jaramillo, Chairman of the Human Rights Committee of Antioquia. Other human rights activists had been the victims of enforced disappearance or had been subjected to threats and acts of harassment which in some cases had forced them to leave the country. Those acts formed part of a policy designed to criminalize the activities of human rights activists by portraying them as collaborators with the guerrillas. If nothing was done to put an end to the situation, it would no longer be possible to defend human rights in Colombia.

22. Pax Christi therefore endorsed the High Commissioner's recommendation No. 14 that the Colombian authorities should ensure proper recognition of the right of human rights advocates to conduct their activities without interference or unlawful hindrance and without fear for their lives, physical integrity or freedom. That recommendation should be accompanied by measures to strengthen the capacity of the Office in Bogotá. The High Commissioner should also closely monitor the implementation of the recommendations made to the Colombian Government by various United Nations bodies concerned with human rights. Finally, Pax Christi International felt that the gravity of the human rights situation in Colombia warranted the appointment of a special rapporteur of the Commission on that question.

23. Mr. FAIRBAIRN (Canadian Council of Churches) said he shared the grave concerns expressed by the High Commissioner with regard to the gross and systematic violations of human rights that were being committed in Colombia. The High Commissioner had noted, in particular, the existence of links between paramilitary groups and the State security forces and the failure of the Colombian Government to take measures to put an end to the activities of those groups and their supporters. Although those links had been attested by hundreds of eyewitness accounts, the Colombian Government still maintained that it was not supporting paramilitary groups, even though the latter had expanded throughout the country and were acting openly in highly militarized zones. That applied in particular to the Uroba region, where the abuses committed with full impunity by those groups - selective assassinations, forced disappearances and massacres - had established a climate of terror that had resulted in the forced displacement of tens of thousands of Colombians in 1997 alone. During a visit to the region in October 1997, a delegation from the Canadian Council of Churches had personally observed the open collaboration between the security forces and paramilitary groups. Yet, far from being removed from duty, General del Río, the army commander of the region, had been promoted and transferred to Bogotá. In contrast, Colonel Velasquez, his second-in-command who had dared to denounce the paramilitary-military alliance in the region, had been accused of insubordination and forced to resign.

24. The Canadian Council of Churches urged that the Chairman's statement on the situation in Colombia should faithfully reflect the grave concerns expressed in the report of the High Commissioner for Human Rights on that question, that the High Commissioner's Office in Bogotá should continue to be strengthened and that the Office of the High Commissioner should make a thorough report on the compliance of the Colombian Government with recommendations 7 and 8 in paragraphs 197 and 198 of the High Commissioner's report that the authorities should permanently disband paramilitary groups and remove from the armed forces and police any persons found to have supported paramilitary groups.

25. Mrs. CHURCH (Catholic Institute for International Relations - CIIR) welcomed the fact that, in her first report on the human rights situation in Colombia, the High Commissioner for Human Rights had characterized the violations committed in that country as "serious, gross and systematic" and had pointed out that many of those violations had occurred outside the context of the internal armed conflict and that the duty of the State to guarantee human rights applied in all circumstances. It seemed clear, therefore, that

the Colombian Government could not invoke the internal armed conflict to justify its failure to apply the recommendations made to it by international bodies.

26. CIIR also believed that the establishment of a just and lasting peace in Colombia should be based on respect for basic rights and concerted action to combat the impunity enjoyed by paramilitary groups. In 1997, the links between those groups and the State security forces had become more evident, as had paramilitary participation in the activities of the so-called "Convivir" associations. It was essential that, as recommended by the High Commissioner, the Government should carry out an effective policy for permanently disbanding paramilitary groups and putting an end to the activities of "Convivir associations" in order to eliminate their negative influence on the human rights crisis and enable the State to have absolute control over the use of force and weapons.

27. CIIR hoped that the Chairman's statement would reflect the content of the High Commissioner's report and requested the Commission to consider submitting that report to the General Assembly.

28. Mr. PEREZ (International Federation of Human Rights Leagues) regretted that, in its reply (E/CN.4/1998/135) to the report of the High Commissioner, the Colombian Government had rejected her conclusion that the violations of human rights in Colombia continued to be serious, gross and systematic. The International Federation rejected the explanations of the Colombian Government which, in paragraph 2 of its reply, claimed to be unable to fulfil its obligation to safeguard the fundamental human rights of its citizens because of the numerous factors and parties involved, which were responsible for the climate of violence, thereby attempting to give the impression that it was itself a victim of the anarchy that prevailed in the country.

29. In reality, the lack of genuine political will on the part of the Colombian Government to remedy the situation could be seen from the fact that no member of the security forces had been dismissed from his post because of participation in the criminal activities of paramilitary groups, and that the latter were acting with the approval of the security forces. Moreover, the military criminal tribunals were still acquitting military and police personnel involved in assassinations or massacres committed by paramilitary groups, in spite of the abundance of evidence against them, and the Government had refused to disband the groups of armed civilians that were thus acting in complete legality. The army also appeared to regard as "subversive" all those engaged in what it called "political warfare" - a term that covered the activities of NGOs, trade unions and some political parties, such as the Communist Party and even traditional parties.

30. Consequently, the International Federation of Human Rights Leagues requested the Commission to ensure that the High Commissioner's Office in Colombia was strengthened, to urge the Colombian Government promptly to implement the recommendations made in the High Commissioner's report, to appoint a special rapporteur to monitor the human rights situation in Colombia and, finally, to pay tribute to the memory of Jesús María Valle Jaramillo, Chairman of the Human Rights Committee of Antioquia, who had been executed at

Medellín on 27 February 1998, and to that of all the other human rights activists who had been assassinated in Colombia and elsewhere in the world.

31. Mrs. MEDINA-ROSALES NATRÁN (International League for the Rights and Liberation of Peoples) said she rejected the internal conflict argument that had been invoked by the Colombian Government to justify its failure to implement the recommendations of the High Commissioner's Office at Bogotá. The report of the High Commissioner clearly showed that the situation in Colombia was far from improving. Membership of paramilitary groups was still not regarded as a criminal offence, and the Government had vested those groups with new legal status, thus showing that it had no intention to disband them but, on the contrary, intended to use them, not only to combat the guerrillas, but also in order to eliminate human rights activists and its political opponents. Consequently, it was important to demand that the Government be held responsible for the violations committed by those groups at its instigation and with its and the army's approval.

32. Moreover, the degree of impunity in Colombia remained very high, owing to the fact that the system of regional tribunals and faceless judges was still in force, which enabled the Government to secure the conviction of all those whom it regarded as subversives on the grounds of their political, social or trade-union activities, and that the military tribunals, which totally lacked independence and impartiality, were continuing to deal with cases that should fall within the jurisdiction of the civil courts.

33. The activity of the Office of the High Commissioner for Human Rights in Bogotá was limited by the lack of dialogue with Colombian social and political organizations, such as trade unions, agricultural associations and indigenous movements, which were in the best position to provide information concerning the real situation of the economic and social rights of the Colombian people.

34. In conclusion, the International League requested the Commission to take a position on the question of the human rights situation in Colombia by appointing a special rapporteur on that question and by strengthening the High Commissioner's Office in Bogotá. It would also be useful if the High Commissioner were to visit the country periodically in order then to report on the activities of the Bogotá Office to the General Assembly. Instead of abandoning Colombia to its fate, the international community should demand that the Government implement, as a matter of urgency, the recommendations addressed to it.

35. Mr. MOTTA (American Association of Jurists - AAJ) said that he was a senator, a member of the Colombian Communist Party and, like many other Colombians, a political exile. A reign of terror prevailed in Colombia, maintained by the army, groups of armed civilians known as "Convivir" associations and paramilitary groups which, under the pretext of combating the guerrillas, were engaged in the systematic elimination of political opponents, trade unionists, social workers and human rights activists who, according to them, were waging a "political war". In reality they were practising real State terrorism by invoking defence and national security against an internal enemy as their justification, a doctrine that was incompatible with respect for human rights and international humanitarian law.

36. The Government continued to speak of the rule of law, when it was in fact maintaining a system of secret tribunals and faceless judges, enacting laws restricting public freedoms and refusing to approve the draft law on enforced disappearances because it would limit the jurisdiction of the military tribunals.

37. The Association also denounced the "Destructor II" operation being carried out by the Colombian army against the Revolutionary Armed Forces of Colombia with military help from the United States in regions where indigenous persons lived. Interference by foreign countries in the Colombian conflict certainly did not help to promote peace there. A full account was given of the worsening human rights situation in Colombia in the High Commissioner's report (E/CN.4/1998/16), and the AAJ hoped that the Commission would appoint a special rapporteur on the question and strengthen the High Commissioner's Office in Colombia.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION (agenda item 15) (continued)

(E/CN.4/1998/2-E/CN.4/Sub.2/1997/50; E/CN.4/1998/86, 87 and Add.1, 88 and 89; E/CN.4/1998/NGO/1; E/CN.4/1997/80; E/CN.4/Sub.2/1997/11)

38. Mr. LINDQVIST (Special Rapporteur of the Commission for Social Development on Disability), introducing his report (A/52/56), said that under his mandate, he had been working very closely with a group of experts consisting of 10 people from six major international organizations in the disability field having national affiliates in more than 160 countries. The exclusion which characterized the situation of disabled people took several forms, the most common of which was lack of access to certain services or programmes, as their particular needs were not taken into account, or placement in institutions, which reduced their opportunities for social integration and increased the risk of degrading treatment, sexual abuse and other forms of violence. The responses to the requests for information addressed to States in 1996 on legislation to protect the rights of disabled people had shown that in many countries there were legal provisions, regulations and practices which explicitly deprived various groups of disabled people from such fundamental rights as access to courts of law, political rights, property rights and the right to marriage and parenthood.

39. Since the drafting of the World Programme of Action concerning Disabled People, considerable progress had been made in recognition of the rights of the disabled following the study by Mr. Despouy, Special Rapporteur of the Sub-Commission on human rights and disabled people, whose report had been published in the early 1990s. General comment No. 5 of the Committee on Economic, Social and Cultural Rights should be mentioned in that regard, as should the increased attention being paid to the situation of disabled children by the Committee on the Rights of the Child, the recent work of the Commission on the Status of Women and Commission on Human Rights resolution 1996/27. Some countries had also adopted anti-discrimination legislation in the disability field. Follow-up to implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities had indicated the importance of coordinating social development and human rights activities. With regard to the drafting of a convention on

the rights of disabled people, before making such a proposal it would be better to see whether tangible results could be achieved through the use of existing instruments.

40. A disability component should be included in all relevant monitoring activities of the United Nations human rights bodies and a report should be produced on the situation of disabled people based on information from NGOs and the Special Rapporteur. The Office of the High Commissioner should offer information and training in human rights to international NGOs dealing with disability questions. Communication and cooperation between those NGOs should be improved. An international conference on human rights and disability should be convened in order to bring together human rights experts and representatives of the organizations in the disability field for more open discussion and mutual understanding.

41. Mrs. ANDERSON (Ireland), focusing her remarks on the human rights of persons with disabilities, said that Mr. Lindqvist's report reinforced the point that treatment of persons with disabilities came fully within the human rights agenda and should not be approached exclusively in a social welfare or social development perspective characterized by an emphasis on providing assistance to persons with disabilities. The two approaches should go hand in hand, as they were complementary. Nevertheless, as Mr. Lindqvist had pointed out, the word best describing the situation of disabled people was "exclusion". Disabled people lived in grim conditions in developing countries; they were relegated to institutions in many countries in transition and were still marginalized in developed countries, where they experienced many difficulties, particularly in finding employment.

42. One of the most effective tools for combating that marginalization and exclusion was the Standard Rules on Equalization of Opportunities for Persons with Disabilities, the implementation of which should be closely monitored. The link between disability and poverty should also be recognized, and bilateral and multilateral development cooperation programmes should include disability measures in their overall approach. The fundamental rights of persons with disabilities should be systematically included in all monitoring activities of the United Nations human rights entities, as was already being done by the Committee on the Rights of the Child, which in October 1997 had hosted a general discussion on the rights of children with disabilities and continually raised the question of disabled children during its consideration of States parties' reports.

43. Ireland was aware of the need for action on behalf of persons with disabilities. It was in that spirit that it had developed a comprehensive database on the service needs of all mentally handicapped persons in the country and how to meet those needs. A new education bill containing particular provisions on the needs of students with disabilities was planned, and training and employment services were being restructured in an effort to deal with high rates of unemployment among disabled people.

44. It was important not to talk of disabled persons as victims; they should themselves participate in developing strategies on their behalf. Human rights institutions and Governments could cooperate with NGOs active in the disability area which possessed a tremendous depth of knowledge and

experience. Her delegation would be presenting a draft resolution on the human rights of disabled persons which it hoped would be adopted by consensus.

45. Mr. KALLEHAUGE (Denmark) said that the disabled community was the largest minority in the world today. Unlike women and children, refugees and victims of racial and religious persecution, disabled people had no automatic right to protection under international law. That was why the organizations of disabled people urged the Commission to take action at the present session by adopting a resolution with a clear and direct message to all nations that, individually and collectively, persons with disabilities had a right to equal opportunities and to non-discrimination. Human rights were universal and applied to all human beings, including persons with disabilities, because all people were born equal and had the same inalienable right to life, education, work, independent living and access to active participation in society. Any discrimination against persons with disabilities would be inconsistent with the Standard Rules on Equalization of Opportunities for Persons with Disabilities and would therefore be an infringement of their human rights.

46. Under those rules, persons with disabilities individually had a right to effective medical care and rehabilitation services to enable them to reach and sustain their optimum level of independence and functioning. They were also entitled to live independently and to participate actively in society, as well as to have access to the physical environment, information and communication, shelter, infrastructure, public transport services and all other basic services. They should furthermore have access to education and studies at all levels and to employment, and should enjoy the same social security benefits as the rest of the population. Lastly, they had the right to participate fully in the development process. Unfortunately, all those rights were still but a dream for most disabled persons around the world. That situation would not change unless Member States acknowledged the unequal conditions under which the disabled community lived. Persons with disabilities must make themselves heard as an integrated group in order to attract the attention of the politicians. The integration of disabled people into political life was the best way to create equality of opportunity.

47. Individually and collectively, persons with disabilities had the right to found and belong to representative organizations, as well as to participate in rehabilitation programmes and regional, national and local plans concerning all target areas for equal participation, in accordance with Rules 1 to 12. Persons with disabilities should be included in all strategies aimed at eradicating poverty, promoting education and enhancing employment.

48. Three principles of interpretation should always be borne in mind when dealing with disability issues. First, it was incumbent upon anyone who did not respect the Rules to substantiate that that treatment did not constitute discrimination against disabled persons. Secondly, no national or international legal instrument must be interpreted to place persons with disabilities at a disadvantage or offer them less protection than was offered to other persons. Thirdly, whenever a particular group of vulnerable, marginalized or impoverished persons was mentioned in a human rights instrument, the text should be read to include persons with disabilities as belonging to the group. Observance of those three principles would contribute

considerably to the mainstreaming of the human rights of persons with disabilities in all the human rights activities of the United Nations and most of its Member States.

49. Mr. DRZEWICKI (Poland) said the Polish delegation had always been in favour of further examination of the issue of minimum humanitarian standards. Such standards could help to offset the failures of existing legal instruments and consequently help to minimize untold human suffering. It welcomed the report of the Secretary-General (E/CN.4/1998/87 and Add.1), which helped significantly to clarify the issue of the applicability of minimum standards and set the framework for future discussions. As to the terminology, it was better to speak of "standards of humanity" than "humanitarian standards", and he also did not object to replacing "minimum" by "fundamental", although the term might generate unnecessary discussion on those standards which might not be considered fundamental. His delegation welcomed the focus in the report on human rights abuses in situations of internal violence. More information should be collected in order to gain a fuller picture of such abuses (E/CN.4/1998/87, para. 37). However, the report underestimated the need to promote universal ratification of the two international Covenants on human rights, merely stating that they had been ratified by a "solid majority of Member States".

50. Fundamental standards were needed to remedy the failure of the international community to come to an agreement on the scope of the escape clauses in international human rights treaties. Poland, which had had its own experience with martial law in 1982, was well-placed to know that the provisions of international instruments could be bypassed. In a broader context, the proclamation of states of emergency had become a regular practice after the Second World War, to the extent that some nations had lived longer under states of emergency than under a democratic system. Furthermore, international supervision in that field was particularly weak. The next report should pay particular attention to that problem.

51. The Polish delegation welcomed the report's establishment of guidelines for the identification of customary rules. The study on the question currently being carried out by the ICRC should be duly taken into account in the course of further discussions by the Commission. Some of the new developments indicated in the report were encouraging, such as the emergence of case law from the International Criminal Tribunals established for the former Yugoslavia and Rwanda, which demonstrated that minimum standards applied in all situations, particularly in internal conflicts, in which human dignity was threatened. Poland held high hopes for the Diplomatic Conference to be held in Rome in June and July 1998 and which would most likely address the question of violence in situations of internal disturbances and responsibility for human rights abuses within the framework of the creation of an international criminal court. The Vienna Declaration and Programme of Action had called on the international community to support the strengthening and promotion of democracy, development and respect for human rights and fundamental freedoms throughout the world. Those fundamental objectives would not, however, be achieved unless fundamental standards of humanity were applied to all Governments, all other entities and all situations. In that

spirit, Poland lent its support to the proposal that the Secretary-General, in coordination with the ICRC, should be requested to continue his study of fundamental standards of humanity.

52. Mr. ALFELD (South Africa) welcomed the Secretary-General's analytical report on fundamental standards of humanity (E/CN.4/1998/87 and Add.1), which contained a lucid listing of the advantages and disadvantages of such standards. That listing would ease the task of those responsible for education in the field of human rights, which was a matter of crucial importance. His delegation was particularly in favour of the use of the expression "fundamental standards of humanity", which would not only avoid the negative and misleading connotation of the term "minimum humanitarian standards" but would also serve as a reminder that the purpose of the exercise was definitely not to place a limitation on existing standards.

53. He recalled that the participants in the International Workshop on Minimum Humanitarian Standards, held in Cape Town in September 1996, had encouraged Governments, international and regional organizations, as well as NGOs and civil society, to promote a debate on the need for the use of fundamental standards of humanity applicable in all circumstances, as well as on practical measures aimed at the improvement of the situation of those affected (E/CN.4/1997/77/Add.1, annex). The situation of those exposed to extreme suffering because of inadequate protection was too often overlooked. It was clear that existing international law relating to human rights and humanitarian norms applicable in armed conflicts did not adequately protect human beings in situations of internal violence, disturbances, tensions or public emergencies. It was well documented that the majority of present-day conflicts fell into exactly that category. The international community should take action to address those shortcomings.

54. A logical first step would be to ensure that all countries had appropriate national legislation for dealing with situations of internal conflict and to attempt to improve the promotion, implementation and observance of existing standards, inter alia by urging the universal ratification of international human rights treaties and of the 1949 Geneva Conventions and their 1977 Additional Protocols, including the acceptance of the competence of the International Fact-Finding Commission established under article 90 of Additional Protocol I. Such measures relied heavily on the provision of legal and technical assistance to Governments, especially those in the developing world, with a view to capacity- and institution-building in those spheres. He commended the good work done by the Advisory Services Unit of the Office of the High Commissioner and by the ICRC. On the African continent, the move towards establishing an African Court of Human Rights and the strengthening of the conflict-prevention mechanisms of the Organization of African Unity (OAU) were positive developments in that regard. South Africa strongly supported the creation of an independent and effective international criminal court.

55. It was clear that fundamental standards of humanity should not preclude simultaneous efforts to address the root causes of conflict, such as poverty and underdevelopment. It would be regrettable for the debate to become bogged down in consideration of the possible effect of the standards on the sovereignty of States. The potential beneficiaries of those rules, the

unprotected victims, deserved a better response from the international community. South Africa supported Switzerland's proposal that the Secretary-General's analytical report be discussed at a seminar to be organized by the Commission on Human Rights.

56. Mr. SINGH (India) said that he welcomed the steps taken by the Sub-Commission to reform its working methods. It was important that the process should continue so that the Sub-Commission could fulfil its role as a "think-tank". Rationalization of the Sub-Commission's agenda should be followed up with better time management, as over 60 per cent of the time during the forty-ninth session had been taken up with interventions by observers and NGOs. That would be a way of re-establishing the primacy of the Sub-Commission as a forum of experts. His delegation also encouraged the Sub-Commission to examine how discussions in the Working Groups on minorities, contemporary forms of slavery and indigenous populations could be better followed up. India fully supported the proposal of the Sub-Commission to extend the mandate of the Working Group on Minorities, which had identified constructive and practical solutions that could bring about meaningful change on the ground. The Sub-Commission should examine practical measures to promote tolerance and pluralism as a means of strengthening democracy and the enjoyment of all human rights, as well as combating prejudice, discrimination and intolerance.

57. Efforts to prioritize, focus and systematize the conduct of studies had got off to a good start. The concise reports prepared after each session, analysing the plenary debate on each of the working papers, would enhance the understanding of Member States of current developments in the field of human rights. The Indian delegation commended in particular the working paper on terrorism and human rights and supported the Sub-Commission's recommendation that a full-fledged study on the subject should be conducted. The Sub-Commission should strengthen and expand its work in the area of the right to development and economic, social and cultural rights, preparing a draft declaration on human rights and extreme poverty which would highlight the link between development and human rights.

58. The status of contributions to the United Nations Voluntary Fund on Contemporary Forms of Slavery was a matter of concern to India, which urged the Office of the High Commissioner to intensify its efforts to remedy the situation. The Sub-Commission should continue to seek "constructive solutions" for the different human rights problems, by providing a forum for the exchange of information on "best practices" in different parts of the world. The Sub-Commission could thereby play a dynamic role in advancing the cause of human rights.

59. Mrs. MARKUS (Observer for the Libyan Arab Jamahiriya) said there were 500 million disabled men, women and children throughout the world. Despite the many instruments referring to the rights of the disabled, from the 1969 Declaration on Social Progress and Development to the Beijing Declaration and Platform for Action of 1995, that 10 per cent of the world's population was still living in difficult conditions that prevented them from exercising their fundamental rights and deprived them of the possibility to participate in society. Islam and Sharia clearly emphasized the need to provide assistance to needy persons. That was why Libya had initiated the

General Assembly's proclamation of 1981 as the International Year of Disabled Persons, which had been focused on the prevention of disability and the full participation of disabled persons in society. In its resolution 37/53 on the implementation of the World Programme of Action concerning Disabled Persons, the Assembly had urged the organizations of the United Nations system to recognize the needs of disabled persons. In that connection, Libya believed it was necessary to create a body that, under the supervision of the Office of the High Commissioner, would be in charge of monitoring respect for the fundamental rights of disabled persons. A convention should also be drafted on the subject.

60. Mr. Hynes (Canada) took the Chair.

61. Mr. ROMARE (Observer for Sweden) said that Sweden had always actively supported United Nations activities in the field of disability. It had, for example, initiated the drafting of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly in 1993, which complemented the World Programme of Action concerning Disabled Persons, adopted by the General Assembly in 1982. The rules were aimed at helping disabled persons to take charge of their lives.

62. Two thirds of the disabled persons of the world lived in developing countries where the services they needed to assist them were scarce or non-existent. Their human rights were being violated. Many of them were among the poorest of the poor, and women with disabilities were triply handicapped. Their need for gender equality and for empowerment was particularly urgent. Children with disabilities were also especially vulnerable. All too many of them did not go to school because they lacked transport facilities, or simply because teachers did not want them in the classroom. Special attention should also be given to persons with psychiatric disabilities, as they were more vulnerable than other disabled persons and were less able to defend their rights.

63. In view of the importance of the work of NGOs on behalf of the disabled, in particular the organizations of the disabled themselves, the Swedish delegation fully supported the recommendations of the Special Rapporteur to create closer cooperation between NGOs, the United Nations human rights entities and the Standard Rules monitoring mechanism.

64. Mr. ROSSI (International Association for Religious Freedom), before referring to the question of minorities, said that, contrary to what had been asserted, to his great astonishment, by an expert of the Sub-Commission at its last session, any group that professed a faith different from that of the majority of the population, even if it had the same ethnic, linguistic or other characteristics, must be considered a religious minority under national and international law. It was essential to protect such minorities against religious extremism.

65. In India, for example, Hindu nationalists wanted to turn the country into a Hindu State, which raised fears among the Muslim minority. In the State of Jammu and Kashmir, on the other hand, where the population was mostly Muslim, it was the Hindu minority that was having difficulties. The Hindu community of the Pandits, which had been settled for centuries in the

Kashmir valley, had for several years been the target of ethnic and religious cleansing. On 25 January 1998, terrorists had massacred 23 Pandits, including nine women and four children, in the village of Vandahama, near Srinagar. Before leaving the village, the terrorists had set fire to the small Pandit temple.

66. The Association therefore urged the Commission to recommend to the Sub-Commission and its Working Group on Minorities to pay closer attention to the situation of religious minorities. It also called upon the Sub-Commission to urge the Governments of Pakistan and India to spare no effort to find a political solution to the problem of Kashmir, to reject all forms of violence and ethnic and religious cleansing and to guarantee respect for the rights of all minorities, including the Pandit minority, which should be able to return to the Kashmir valley and live in peace with the Muslim majority.

67. Mr. TEITELBAUM (American Association of Jurists) called the attention of the Commission to the case of Waldo Albarracín, President of the Permanent Human Rights Assembly of Bolivia and a member of the American Association of Jurists, who had been invited by an NGO, Oxfam Quebec, to go to Canada in 1998. When the aeroplane carrying him from Bolivia to Canada had stopped in Miami, he had been treated as a criminal by the United States authorities. After subjecting him to a body search and taking away all his personal effects, he had been forbidden to continue his journey and had been sent back to Bolivia, even though all his papers and tickets were in order. That constituted a flagrant violation of article 12 of the International Covenant on Civil and Political Rights, on the right to freedom of movement, to which the United States was a party. He pointed out in that connection that none of the 17 reservations that had been entered by the United States Government concerned article 12. That new incident was part of the framework of repression organized from the United States and aimed for decades at democratic and popular figures and movements from Latin America.

68. The Association had filed a lawsuit for Mr. Albarracín to obtain compensation.

69. Mr. PANDITA (African Commission of Health and Human Rights Promoters) said that, in its resolution 1996/20, the Sub-Commission had reiterated its unequivocal condemnation of all acts, methods and practices of terrorism regardless of their motivation, in all its forms and manifestations, wherever and by whomever committed, as acts of aggression aimed at the annihilation of human rights, fundamental freedoms and democracy, threatening territorial integrity and destabilizing legitimately constituted Governments, and undermining pluralistic civil society. That statement should serve as a basis for an acceptable definition of terrorism. There appeared to be no need for the Special Rapporteur on terrorism and human rights to rake up controversies over the definition by linking the issue to national liberation struggles or struggles for the right of self-determination.

70. It was also important to remain vigilant in the face of new forms of terrorism. His organization called in particular for more concrete steps to combat and eliminate transnational terrorism. The Cuban Government had drawn the attention of the Special Rapporteur to States which allowed known terrorist groups to remain based on their soil and then operate in

neighbouring countries with total impunity. Subscribing to that observation, the League of Arab States had proposed that States should be urged to refrain from sheltering outlaws, prohibit hostile activity against another State, cease interfering in the internal affairs of other States and respect their independence and sovereignty.

71. Recently, transboundary terrorism had caused new victims. On 25 January 1998, 23 members of the Pandit minority, including 9 women and 4 children, had been savagely killed in the village of Wandahama in Jammu and Kashmir. The Pandits were not the only victims. On 4 July 1995, five European tourists had been taken hostage in Kashmir by terrorists. The organization Harakatul Ansar, alias Al Faran, had claimed responsibility. One of the hostages had been found beheaded a month later, and the whereabouts of the other four were still unknown. In October 1997 the head of that terrorist organization, Fazlur Rehman Khalil, had publicly stated in Rawalpindi (Pakistan) that its 10,000 activists were carrying out a jihad in Kashmir against the infidels. Pakistan seemed to have fallen into the hands of extremist organizations supporting transboundary terrorism.

72. The United Nations system possessed the necessary legal arsenal to eliminate the threat of transboundary terrorism; the question was whether there was the will to use it.

73. Mrs. TANAKA (International Movement against All Forms of Discrimination and Racism) drew the attention of the Commission to the urgency of investigating the modern manifestations of trafficking in women and girls, including the globalization of the international sex trade; increased organization of the traffickers, who often benefited from the collusion of government officials, tourist agencies and airline companies; and diversification in the purposes of trafficking, including forced marriages and other forms of sexual exploitation.

74. In a study conducted by her organization on the trafficking of Asian women to Japan, it had become apparent that in most cases those women became or remained prostitutes because of poverty and unemployment, lack of proper reintegration services, adverse social attitudes or family pressure. It was therefore not sufficient merely to oblige States to punish the exploitation of the prostitution of others; they must also be obliged to address the root causes of trafficking, penalize the traffickers and reintegrate the victims. An independent supervisory body should also be empowered to monitor the implementation of those obligations through the scrutiny of State reports and information provided by NGOs.

75. To that end her organization would transmit to the Working Group on Contemporary Forms of Slavery a draft optional protocol to the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which would include provisions to empower the victims and survivors of trafficking to exercise a certain number of rights, including the right to bring civil suit against their traffickers; to facilitate the work of NGOs; to penalize the culprits of trafficking and their accomplices more severely; to strengthen the implementation of the 1949 Convention through

enhanced State reporting procedures, individual complaints procedures and mandatory national plans of action; and to set up a special fact-finding mechanism.

76. Mrs. SMALLWOOD (North-South XXI) said that it was not until 1967 that the Australian indigenous people had obtained citizenship. Because of the genocide of which they had been the victims, they represented only 1.6 per cent of the Australian population. Between 1910 and 1970, a large number of indigenous children had been forcibly removed from their families. Under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, such a policy amounted to genocide. Australia had ratified that Convention in 1949.

77. The indigenous people of Australia constituted a fourth world in the midst of a wealthy developed country. The infant mortality rate of indigenous children was three times greater than that of other babies; indigenous life expectancy was 25 years lower than that of other Australians; and indigenous unemployment was five to six times greater than that of other Australians. In remote rural areas, indigenous communities still lacked basic infrastructure, such as clean drinking water. Politicians were currently trying to take away the land rights of indigenous people. Funding for the Indigenous Affairs Department was being cut, and racial intolerance was being allowed to enter the political spectrum.

78. In Kakadu National Park, indigenous people were opposing all uranium mining, because for them the land was sacred. The Government reasoned purely in terms of economics and did not consider the indigenous people's cultural ties to the land. Her organization called on the United Nations to take the concerns of the indigenous people of Australia into account and to intervene.

79. Mrs. POLONOVSKI-VAUCLAIR (Coalition against Trafficking in Women) said that the prostitution and trafficking of women and girls had reached epidemic proportions in many Asian countries, and in Taiwan in particular. Thailand was the major sending country, and Japan was the major destination, where some 150,000 women and girls were working in the Japanese sex industry, roughly 80 per cent of them Thais and Filipinas, and 20 per cent Korean and Taiwanese. Taiwan was the hub of the traffic, one consequence being that Taiwanese girls and women were being increasingly targeted by the pimps and traffickers: between 60,000 and 100,000 women and girls worked in the sex industry, and the figure was much higher when migrant women workers were added.

80. There were three central means of recruitment. First of all, in recent decades brokerages and agencies had been introducing "international brides" into Taiwan and, according to the Taiwan Grass-Roots Women Workers' Centre, by the end of 1996 there were 130,000 such women. Once in Taiwan, they were moved into prostitution and other forms of sexual exploitation or transferred to Japan to work in the sex industry there. Secondly, since the 1950s women from 10 indigenous tribes of Taiwan had been targeted by the sex industry, which had strong ties to organized crime. Some 5,000 of them had reportedly been sent to Japan. Thirdly, Chinese minority women refugees in the northern border zones of Thailand and Cambodia who could not work in either of those

countries because of their refugee status, were also targeted. After being sent to Taiwan with migrant worker status, they were forced to work in the sex industry.

81. One very urgent problem was health. Because of their illegal status, women could not receive welfare or medication. Given the alarming proportions reached by AIDS in Thailand, the figures for HIV positives and AIDS in Taiwan remained underestimated. With the development of the Thailand-Taiwan-Japan linkage, the AIDS situation was extremely alarming, given the lack of systematic investigation or transparency. As Taiwan remained a closed State, the international community should be aware of the increasing danger of the epidemic and provide women and girls with access to the international agencies.

82. It was obvious that the situation of trafficking in women in Taiwan had become worrisome. The Commission was therefore urged to take the necessary measures to provide easy and direct access for Taiwanese NGOs to United Nations bodies and specialized agencies. The Special Rapporteur on violence against women should conduct a thorough investigation and report on trafficking in women and girls, the international bride market and domestic labour and prostitution in south-east Asia, including Taiwan.

83. Mrs. BECK-HENRY (World Movement of Mothers) said that in many countries, the place and role of mothers in society was not recognized. Aid and payments to mothers, according to the particular circumstances or the country concerned, made them perpetual welfare recipients. The World Movement of Mothers believed that mothers were workers in their own right and that the status of mother, whether she stayed at home or engaged in an occupation outside the home, should be established. Mothers should be legally and financially entitled to choose the number and needs of their children, based on the stability of the family, particularly if the children were disabled or needed special attention or assistance.

84. She called on the Commission to render justice to mothers and urged all countries to give them the place they deserved.

The meeting rose at 6 p.m.